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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,616	04/20/2001	Will L. Culpepper	D-3032	2446

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THE MEAD CORPORATION  
LEGAL DEPARTMENT  
4850D NORTH CHURCH LANE  
SMYRNA, GA 30080

EXAMINER

VALENZA, JOSEPH E

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 04/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/839,616

Applicant(s)

CVLPEPPER ET AL

Examiner

VALENZA

Group Art Unit

3651

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-7 is/are pending in the application.  
Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-7 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: \*\*\*

### DETAILED ACTION

1. Claims 1, 2 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziegler et al in view of Hawley.

It would have been obvious that the infeed conveyor 13 of Ziegler et al could be faster than metering conveyor 14 and grouping conveyor 12 of Ziegler et al as taught by column 2 lines 38-40 of Hawley. With regard to claim 2, the angle of the guides forming the transverse lanes is considered to be equivalent to the teachings in the last 3 lines of column 5 and the first 3 lines in column 6 of Ziegler et al because applicant has not proven that 18.7 degrees is critical. With regard to claim 5, note column 6 lines 30 and 31 of Ziegler et al. With regard to claims 6 and 7, the ability to vary the speed of the metering conveyor is still within the scope of Ziegler et al as long as the speed of the grouping conveyor is varied the same as the metering conveyor.

2. Claims 1-7 are rejected under 35 U.S.C. 112 for the following reasons. All of the claims are incomplete because the means forming the lanes must be claimed. Claim 3 is based on an inadequate disclosure because having the speed of the metering conveyor less than the speed of the grouping conveyor which itself is less than the speed of the infeed conveyor will not cause the articles between selected lugs 432 on the metering conveyor to disappear as they move further downstream and onto the grouping conveyor. Since there is no chance for the excess articles to delay in the lanes for the formation of the next group and there is no disclosure of them being dropped or diverted to another location, they can either be crushed between the relatively moving

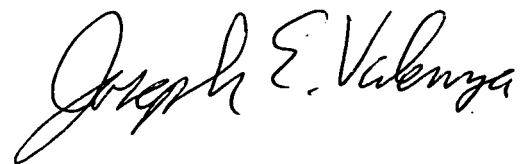
Art Unit: \*\*\*

lugs 432 and 452 or disappear by magic. Unfortunately, neither of the last two options have been disclosed either.

3. This is a continuation of applicant's earlier Application No. 09/175,811. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

4. Any inquiry concerning this communication should be directed to Joseph E. Valenza at telephone number (703) 308-2577. Amendments may be faxed to 703-305-7687. My normal workweek is Monday through Thursday.



JOSEPH E. VALENZA  
PRIMARY EXAMINER